

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 09-3515

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Marlin E. Jones,

Appellant,

v.

Terry L. Burns,

Appellee.

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Appeal from the United States  
District Court for the  
District of Nebraska.

**[UNPUBLISHED]**

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Submitted: April 22, 2010

Filed: April 27, 2010

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Before LOKEN, BYE, and SHEPHERD, Circuit Judges.

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PER CURIAM.

Marlin E. Jones appeals the district court's<sup>1</sup> Federal Rule of Civil Procedure 41(b) dismissal of his action for failure to prosecute and failure to comply with court orders. We conclude that dismissal was not an abuse of discretion because, without sufficient justification, Jones did not attend the final pretrial conference and did not appear for trial. See DuBose v. Minnesota, 893 F.2d 169, 171 (8th Cir. 1990) (standard of review; affirming Rule 41(b) dismissal where pro se plaintiff failed to

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<sup>1</sup>The Honorable F. A. Gossett, III, United States Magistrate Judge for the District of Nebraska, to whom the case was referred for final disposition by consent of the parties pursuant to 28 U.S.C. § 636(c).

attend pretrial conference or appear for trial). We likewise conclude that the court did not abuse its discretion in declining to appoint counsel to represent Jones, see Phillips v. Jasper County Jail, 437 F.3d 791, 794 (8th Cir. 2006) (standard of review; outlining factors), or in denying Jones's late-tendered motion to transfer venue, see Terra Int'l, Inc. v. Miss. Chem. Corp., 119 F.3d 688, 696 (8th Cir. 1997) (standard of review). Accordingly, we affirm. See 8th Cir. R. 47B.

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